

## REMARKS/ARGUMENTS

Applicants have received the Office Action dated May 13, 2009, in which the Examiner rejected claims 1, 2 and 4-65 under 35 U.S.C. § 103(a) as being unpatentable over Spencer (U.S. Pat. No. 6,633,907, hereinafter “Spencer”) in view of Fascenda (U.S. Pat. No. 6,560,604, hereinafter “Fascenda”) and Official Notice.

With this Response, Applicants have amended claims 1, 2 and 4. Based on the amendments and the arguments below, Applicants respectfully submit that all claims are in condition for allowance.

### I. REJECTIONS UNDER 35 U.S.C. § 103

#### A. Claim 1

Claim 1 has been amended. Amended claim 1 requires “receiving, by a network device to be provisioned, at least one unsolicited software retrieval command, sent by a provisioning network connected via network to the network device, to be executed on said network device.” The amendment to claim 1 clarifies that a network device is to be provisioned. Support for these amendments can be found at least at ¶¶ [0044]-[0049] of the specification. Spencer teaches provisioning of user selected services, (Spencer, col. 1, lines 56-67) rather than provisioning of devices. A specific user selected service is provisioned by a service configuration object (“SCO”) that retrieves user entered data related to the service and applies the data to provision the service. (Spencer, col. 4, lines 3-21). Provisioning of devices is different from provisioning of services because provisioning of services requires no device level provisioning, rather, as Spencer teaches, service functionality preexists and is available to the user with subscription. Fascenda fails to satisfy these deficiencies of Spencer.

Amended claim 1 requires “receiving . . . at least one unsolicited software retrieval command.” Spencer fails to teach or even suggest these limitations. Applicants are unable to identify any specific commands in the disclosure of Spencer. Furthermore, Spencer suggests that no software retrieval is required to configure a service, but that service functionality is resident and only

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application of user provided data is necessary to configure an available service for a user. (Spencer, col. 4, lines 3-31). Fascenda teaches reconfiguring a client device without distributing software and therefore fails to satisfy the deficiencies of Spencer. (Fascenda, col. 3, lines 13-15).

Amended claim 1 also requires “reading, by said provisioning network, parameters of said network device from a network database, said reading being responsive to an inquiry based on the at least one command and received from said network device.” Support for the amendment can be found at least at ¶ [0051] of the specification. Spencer fails to teach or even suggest a provisioning network reading parameters of the network device responsive to a device inquiry based on a software retrieval command sent by the provisioning network. Fascenda fails to satisfy the deficiencies of Spencer.

The Examiner admitted that neither Spencer nor Fascenda limit provisioning to a computer network, and took Official notice “that it would have been obvious to specifically limit the provisioning process to a computer network only.” (Office Action of May 13, p. 3). Applicants respectfully submit that in accordance with MPEP § 2144.03, Official Notice may be taken as to facts not in the record. However, obviousness is not a fact, but a question of law based on underlying factual inquiries. (See MPEP § 2141 II). Therefore, Applicants respectfully submit that Official Notice of obviousness may not be taken and consequently the Examiner has failed to present a *prima facie* case of obviousness.

If the Examiner intended to express the view that such limitation is common knowledge (i.e., “capable of instant and unquestionable demonstration as being well known” (MPEP § 2144.03 A)), then Applicants disagree and based on *In re Ahlert and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

For at least these reasons, Applicants respectfully submit that amended claim 1 and claims 2, 4-65 depending therefrom are allowable of the cited art.

**B. Claim 2**

Claim 2 is allowable for an addition reason. Claim 2 has been amended to recite “the agent being configured to manipulate all of the software on the network device.” Support for the amendment can be found at least at ¶ [0012] of the specification. Spencer and Fascenda fail to teach or even suggest an agent with this capability.

**C. Claim 4**

Portions of claim 4 added to amended claim 1 have been deleted. The Examiner admitted that neither Spencer nor Fascenda teach the limitations of claim 4, and took Official notice “that it would have been obvious . . . to include a method to request the validity of a command message.” (Office Action of May 13, p. 3-4). Applicants respectfully submit that in accordance with MPEP § 2144.03, Official Notice may be taken as to facts not in the record. However, obviousness is not a fact, but a question of law based on underlying factual inquiries. (See MPEP § 2141 II). Therefore, Applicants respectfully submit that Official Notice of obviousness may not be taken and consequently the Examiner has failed to present a *prima facie* case of obviousness. For at least this additional reason, Applicants respectfully submit that claim 4 and all claims depending therefrom are allowable over the cited art.

If the Examiner intended to express the view that the verification operations required by claim 4 are common knowledge, then Applicants disagree and based on *In re Ahlert and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

**D. Claim 6**

Claim 6 requires “determining is based on reading software packaging parameters.” The Examiner cites Spencer Figures 2-3, and col. 2, lines 7-12 as allegedly teaching these limitations. None of the cited locations of Spencer expressly teaches “reading software packaging parameters.” The Examiner equates services with packages and SCO service provisioning with determining based on packaging parameters. However, Spencer clearly indicates that the user enters information and from that information user selected services are

determined and provisioned. SCOs are called based on selected services. No reading of software packaging parameters is taught or suggested. Fascenda fails to satisfy this deficiency of Spencer. For this additional reason, claim 6 and all claims depending therefrom are allowable over the cited art.

**E. Claims 8 and 9**

Claim 8 requires “software packaging parameters comprise software roles.” Claim 9 requires that “the compatibility requirements comprise software roles compatibility requirements.” The Examiner cites Spencer, col. 4, lines 10-21 as allegedly teaching these limitations. However, the specification at ¶ [0013] expressly defines roles as “categories that relate to the frequency with which they [(components)] are likely to be updated and/or the set of personnel who are permitted to have access to them.” The Examiner equates services with roles. Applicants respectfully submit that neither Spencer nor Fascenda teach roles as required by claims 8 and 9 in light of the specification. “The Office must apply the broadest reasonable meaning to the claim language, taking into account any definitions presented in the specification.” *Ex parte Day*, 2008-005100, at 5 (BPAI, July, 6, 2009). “Except when applicants expressly define their claim terms, ‘claims are given their broadest reasonable interpretation consistent with the specification.’” *Ex parte Pitman*, 2007-0537, at 10 (BPAI, July, 23, 2007) (citing *In re Hyatt*, 211 F.3d 1367, 1372, (Fed. Cir. 2000)). For this additional reason, claims 8 and 9 and all claims depending therefrom are allowable over the cited art.

**F. Claim 10**

The Examiner admitted that neither Spencer nor Fascenda teach the limitations of claim 10, and took Official notice “that it would have been obvious . . . to include operating system parameters as packaging parameters.” (Office Action of May 13, p. 5). Applicants respectfully submit that in accordance with MPEP § 2144.03, Official Notice may be taken as to facts not in the record. However, obviousness is not a fact, but a question of law based on underlying factual inquiries. (See MPEP § 2141 II). Therefore, Applicants respectfully submit that Official Notice of obviousness may not be taken and

consequently the Examiner has failed to present a *prima facie* case of obviousness. For at least this additional reason, Applicants respectfully submit that claim 10 is allowable over the cited art.

If the Examiner intended to express the view that software packaging parameters comprising operating system parameters as required by claim 10 are common knowledge, then Applicants disagree and based on *In re Ahlert and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

#### **G. Claim 11**

The Examiner admitted that neither Spencer nor Fascenda teach the limitations of claim 11, and took Official notice "that it would have been obvious . . . to include OS compatibility requirements as compatibility requirements." (Office Action of May 13, p. 5). Applicants respectfully submit that in accordance with MPEP § 2144.03, Official Notice may be taken as to facts not in the record. However, obviousness is not a fact, but a question of law based on underlying factual inquiries. (See MPEP § 2141 II). Therefore, Applicants respectfully submit that Official Notice of obviousness may not be taken and consequently the Examiner has failed to present a *prima facie* case of obviousness. For at least this additional reason, Applicants respectfully submit that claim 11 is allowable over the cited art.

If the Examiner intended to express the view that compatibility requirements comprising OS compatibility requirements as required by claim 10 are common knowledge, then Applicants disagree and based on *In re Ahlert and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

#### **H. Claim 16**

The Examiner admitted that neither Spencer nor Fascenda teach the limitations of claim 16, and took Official notice "that it would have been obvious . . . to include this limitation." (Office Action of May 13, p. 6). Applicants respectfully submit that in accordance with MPEP § 2144.03, Official Notice may be taken as to facts not in the record. However, obviousness is not a fact, but a

question of law based on underlying factual inquiries. (See MPEP § 2141 II). Therefore, Applicants respectfully submit that Official Notice of obviousness may not be taken and consequently the Examiner has failed to present a *prima facie* case of obviousness. For at least this additional reason, Applicants respectfully submit that claim 16 and all claims depending therefrom are allowable over the cited art.

If the Examiner intended to express the view that software packaging parameters comprising device parameters as required by claim 16 are common knowledge, then Applicants disagree and based on *In re Ahlert and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

#### **I. Claim 17**

The Examiner admitted that neither Spencer nor Fascenda teach the limitations of claim 17, and took Official notice “that it would have been obvious . . . to include this limitation.” (Office Action of May 13, p. 6). Applicants respectfully submit that in accordance with MPEP § 2144.03, Official Notice may be taken as to facts not in the record. However, obviousness is not a fact, but a question of law based on underlying factual inquiries. (See MPEP § 2141 II). Therefore, Applicants respectfully submit that Official Notice of obviousness may not be taken and consequently the Examiner has failed to present a *prima facie* case of obviousness. For at least this additional reason, Applicants respectfully submit that claim 17 and all claims depending therefrom are allowable over the cited art.

If the Examiner intended to express the view that device parameters comprising device interface parameters as required by claim 17 are common knowledge, then Applicants disagree and based on *In re Ahlert and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

#### **J. Claim 18**

The Examiner admitted that neither Spencer nor Fascenda teach the limitations of claim 18, and took Official notice “that it would have been

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obvious . . . to include this limitation." (Office Action of May 13, p. 7). Applicants respectfully submit that in accordance with MPEP § 2144.03, Official Notice may be taken as to facts not in the record. However, obviousness is not a fact, but a question of law based on underlying factual inquiries. (See MPEP § 2141 II). Therefore, Applicants respectfully submit that Official Notice of obviousness may not be taken and consequently the Examiner has failed to present a prima facie case of obviousness. For at least this additional reason, Applicants respectfully submit that claim 18 is allowable over the cited art.

If the Examiner intended to express the view that device interface parameters comprising device internet protocol (IP) address parameters as required by claim 18 are common knowledge, then Applicants disagree and based on *In re Ahlert and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

**K. Claim 19**

The Examiner admitted that neither Spencer nor Fascenda teach the limitations of claim 19, and took Official notice "that it would have been obvious . . . to include this limitation." (Office Action of May 13, p. 7). Applicants respectfully submit that in accordance with MPEP § 2144.03, Official Notice may be taken as to facts not in the record. However, obviousness is not a fact, but a question of law based on underlying factual inquiries. (See MPEP § 2141 II). Therefore, Applicants respectfully submit that Official Notice of obviousness may not be taken and consequently the Examiner has failed to present a prima facie case of obviousness. For at least this additional reason, Applicants respectfully submit that claim 19 is allowable over the cited art.

If the Examiner intended to express the view that interface parameters comprising interface type parameters as required by claim 19 are common knowledge, then Applicants disagree and based on *In re Ahlert and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

**L. Claim 20**

The Examiner admitted that neither Spencer nor Fascenda teach the limitations of claim 20, and took Official notice “that it would have been obvious . . . to include this limitation.” (Office Action of May 13, p. 7). Applicants respectfully submit that in accordance with MPEP § 2144.03, Official Notice may be taken as to facts not in the record. However, obviousness is not a fact, but a question of law based on underlying factual inquiries. (See MPEP § 2141 II). Therefore, Applicants respectfully submit that Official Notice of obviousness may not be taken and consequently the Examiner has failed to present a *prima facie* case of obviousness. For at least this additional reason, Applicants respectfully submit that claim 20 is allowable over the cited art.

If the Examiner intended to express the view that device parameters comprising interface components parameters as required by claim 20 are common knowledge, then Applicants disagree and based on *In re Ahlert and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

**M. Claim 21**

The Examiner admitted that neither Spencer nor Fascenda teach the limitations of claim 21, and took Official notice “that it would have been obvious . . . to include this limitation.” (Office Action of May 13, p. 8). Applicants respectfully submit that in accordance with MPEP § 2144.03, Official Notice may be taken as to facts not in the record. However, obviousness is not a fact, but a question of law based on underlying factual inquiries. (See MPEP § 2141 II). Therefore, Applicants respectfully submit that Official Notice of obviousness may not be taken and consequently the Examiner has failed to present a *prima facie* case of obviousness. For at least this additional reason, Applicants respectfully submit that claim 21 is allowable over the cited art.

If the Examiner intended to express the view that device parameters comprising memory components parameters as required by claim 21 are common knowledge, then Applicants disagree and based on *In re Ahlert and*

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*Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

**N. Claim 22**

The Examiner admitted that neither Spencer nor Fascenda teach the limitations of claim 22, and took Official notice “that it would have been obvious . . . to include this limitation.” (Office Action of May 13, p. 8). Applicants respectfully submit that in accordance with MPEP § 2144.03, Official Notice may be taken as to facts not in the record. However, obviousness is not a fact, but a question of law based on underlying factual inquiries. (See MPEP § 2141 II). Therefore, Applicants respectfully submit that Official Notice of obviousness may not be taken and consequently the Examiner has failed to present a *prima facie* case of obviousness. For at least this additional reason, Applicants respectfully submit that claim 22 is allowable over the cited art.

If the Examiner intended to express the view that device parameters comprising memory components parameters as required by claim 22 are common knowledge, then Applicants disagree and based on *In re Ahlert and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

**O. Claim 23**

The Examiner admitted that neither Spencer nor Fascenda teach the limitations of claim 23, and took Official notice “that it would have been obvious . . . to include this limitation.” (Office Action of May 13, p. 8). Applicants respectfully submit that in accordance with MPEP § 2144.03, Official Notice may be taken as to facts not in the record. However, obviousness is not a fact, but a question of law based on underlying factual inquiries. (See MPEP § 2141 II). Therefore, Applicants respectfully submit that Official Notice of obviousness may not be taken and consequently the Examiner has failed to present a *prima facie* case of obviousness. For at least this additional reason, Applicants respectfully submit that claim 23 is allowable over the cited art.

If the Examiner intended to express the view that device parameters comprise central processing unit (CPU) parameters as required by claim 23 are

common knowledge, then Applicants disagree and based on *In re Ahlert and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

**P. Claim 24**

The Examiner admitted that neither Spencer nor Fascenda teach the limitations of claim 24, and took Official notice "that it would have been obvious . . . to include this limitation." (Office Action of May 13, p. 8). Applicants respectfully submit that in accordance with MPEP § 2144.03, Official Notice may be taken as to facts not in the record. However, obviousness is not a fact, but a question of law based on underlying factual inquiries. (See MPEP § 2141 II). Therefore, Applicants respectfully submit that Official Notice of obviousness may not be taken and consequently the Examiner has failed to present a *prima facie* case of obviousness. For at least this additional reason, Applicants respectfully submit that claim 24 and all claims depending therefrom are allowable over the cited art.

If the Examiner intended to express the view that compatibility requirements comprising device compatibility requirements as required by claim 24 are common knowledge, then Applicants disagree and based on *In re Ahlert and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

**Q. Claim 25-31**

The Examiner rejected claims 25-31 on the bases respectively given for claims 17-23. Applicants respectfully submit that claims 25-31 and all claims depending from any of claims 25-31 are allowable over the cited art for much the same reasons as explained above with regard to claims 17-23.

**R. Claim 32**

The Examiner admitted that neither Spencer nor Fascenda teach the limitations of claim 32, and took Official notice "that it would have been obvious . . . to include this limitation." (Office Action of May 13, p. 9). Applicants respectfully submit that in accordance with MPEP § 2144.03, Official Notice may be taken as to facts not in the record. However, obviousness is not a fact, but a

question of law based on underlying factual inquiries. (See MPEP § 2141 II). Therefore, Applicants respectfully submit that Official Notice of obviousness may not be taken and consequently the Examiner has failed to present a *prima facie* case of obviousness. Moreover, neither Spencer nor Fascenda teach software roles as explained above with regard to claims 8 and 9. For at least these additional reasons, Applicants respectfully submit that claim 32 is allowable over the cited art.

If the Examiner intended to express the view that software roles compatibility requirements comprise device roles compatibility requirements as required by claim 32 are common knowledge, then Applicants disagree and based on *In re Ahlert and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

**S. Claim 33**

The Examiner admitted that neither Spencer nor Fascenda teach the limitations of claim 33, and took Official notice “that it would have been obvious . . . to include this limitation.” (Office Action of May 13, p. 9). Applicants respectfully submit that in accordance with MPEP § 2144.03, Official Notice may be taken as to facts not in the record. However, obviousness is not a fact, but a question of law based on underlying factual inquiries. (See MPEP § 2141 II). Therefore, Applicants respectfully submit that Official Notice of obviousness may not be taken and consequently the Examiner has failed to present a *prima facie* case of obviousness. Moreover, neither Spencer nor Fascenda teach software roles as explained above with regard to claims 8 and 9. For at least these additional reasons, Applicants respectfully submit that claim 33 is allowable over the cited art.

If the Examiner intended to express the view that software roles comprising device roles as required by claim 33 are common knowledge, then Applicants disagree and based on *In re Ahlert and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

**T. Claim 34**

The Examiner admitted that neither Spencer nor Fascenda teach the limitations of claim 34, and took Official notice “that it would have been obvious . . . to include this limitation.” (Office Action of May 13, p. 10). Applicants respectfully submit that in accordance with MPEP § 2144.03, Official Notice may be taken as to facts not in the record. However, obviousness is not a fact, but a question of law based on underlying factual inquiries. (See MPEP § 2141 II). Therefore, Applicants respectfully submit that Official Notice of obviousness may not be taken and consequently the Examiner has failed to present a *prima facie* case of obviousness. For at least this additional reason, Applicants respectfully submit that claim 34 is allowable over the cited art.

If the Examiner intended to express the view that software packaging parameters comprise application packaging parameters as required by claim 34 are common knowledge, then Applicants disagree and based on *In re Ahlert and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

**U. Claim 35**

The Examiner admitted that neither Spencer nor Fascenda teach the limitations of claim 35, and took Official notice “that it would have been obvious . . . to include this limitation.” (Office Action of May 13, p. 10). Applicants respectfully submit that in accordance with MPEP § 2144.03, Official Notice may be taken as to facts not in the record. However, obviousness is not a fact, but a question of law based on underlying factual inquiries. (See MPEP § 2141 II). Therefore, Applicants respectfully submit that Official Notice of obviousness may not be taken and consequently the Examiner has failed to present a *prima facie* case of obviousness. For at least this additional reason, Applicants respectfully submit that claim 35 is allowable over the cited art.

If the Examiner intended to express the view that compatibility requirements comprising application compatibility requirements as required by claim 35 are common knowledge, then Applicants disagree and based on *In re*

*Ahler and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

**V. Claim 36**

The Examiner admitted that neither Spencer nor Fascenda teach the limitations of claim 36, and took Official notice “that it would have been obvious . . . to include this limitation.” (Office Action of May 13, p. 10). Applicants respectfully submit that in accordance with MPEP § 2144.03, Official Notice may be taken as to facts not in the record. However, obviousness is not a fact, but a question of law based on underlying factual inquiries. (See MPEP § 2141 II). Therefore, Applicants respectfully submit that Official Notice of obviousness may not be taken and consequently the Examiner has failed to present a *prima facie* case of obviousness. Moreover, neither Spencer nor Fascenda teach software roles as explained above with regard to claims 8 and 9. For at least these additional reasons, Applicants respectfully submit that claim 36 and all claims depending therefrom are allowable over the cited art.

If the Examiner intended to express the view that software roles comprising application software roles as required by claim 36 are common knowledge, then Applicants disagree and based on *In re Ahler and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

**W. Claim 38**

The Examiner admitted that neither Spencer nor Fascenda teach the limitations of claim 38, and took Official notice “that it would have been obvious . . . to include this limitation.” (Office Action of May 13, p. 11). Applicants respectfully submit that in accordance with MPEP § 2144.03, Official Notice may be taken as to facts not in the record. However, obviousness is not a fact, but a question of law based on underlying factual inquiries. (See MPEP § 2141 II). Therefore, Applicants respectfully submit that Official Notice of obviousness may not be taken and consequently the Examiner has failed to present a *prima facie* case of obviousness. Moreover, neither Spencer nor Fascenda teach software roles as explained above with regard to claims 8

and 9. For at least these additional reasons, Applicants respectfully submit that claim 38 and all claims depending therefrom are allowable over the cited art.

If the Examiner intended to express the view that software roles compatibility requirements comprising application roles compatibility requirements as required by claim 38 are common knowledge, then Applicants disagree and based on *In re Ahlert and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

**X. Claim 40**

The Examiner admitted that neither Spencer nor Fascenda teach the limitations of claim 40, and took Official notice “that it would have been obvious . . . to include this limitation.” (Office Action of May 13, p. 11). Applicants respectfully submit that in accordance with MPEP § 2144.03, Official Notice may be taken as to facts not in the record. However, obviousness is not a fact, but a question of law based on underlying factual inquiries. (See MPEP § 2141 II). Therefore, Applicants respectfully submit that Official Notice of obviousness may not be taken and consequently the Examiner has failed to present a *prima facie* case of obviousness. For at least this additional reason, Applicants respectfully submit that claim 40 is allowable over the cited art.

If the Examiner intended to express the view that software packaging parameters relating to a variety of network service tiers as required by claim 40 are common knowledge, then Applicants disagree and based on *In re Ahlert and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

**Y. Claim 41**

The Examiner admitted that neither Spencer nor Fascenda teach the limitations of claim 41, and took Official notice “that it would have been obvious . . . to include this limitation.” (Office Action of May 13, p. 12). Applicants respectfully submit that in accordance with MPEP § 2144.03, Official Notice may be taken as to facts not in the record. However, obviousness is not a fact, but a question of law based on underlying factual inquiries. (See MPEP § 2141 II). Therefore, Applicants respectfully submit that Official Notice of

obviousness may not be taken and consequently the Examiner has failed to present a *prima facie* case of obviousness. For at least this additional reason, Applicants respectfully submit that claim 41 is allowable over the cited art.

If the Examiner intended to express the view that compatibility requirements are defined according to a variety of network service tiers as required by claim 41 are common knowledge, then Applicants disagree and based on *In re Ahlert and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

#### **Z. Claim 42**

The Examiner admitted that neither Spencer nor Fascenda teach the limitations of claim 42, and took Official notice “that it would have been obvious . . . to include this limitation.” (Office Action of May 13, p. 12). Applicants respectfully submit that in accordance with MPEP § 2144.03, Official Notice may be taken as to facts not in the record. However, obviousness is not a fact, but a question of law based on underlying factual inquiries. (See MPEP § 2141 II). Therefore, Applicants respectfully submit that Official Notice of obviousness may not be taken and consequently the Examiner has failed to present a *prima facie* case of obviousness. For at least this additional reason, Applicants respectfully submit that claim 42 and all claims depending therefrom are allowable over the cited art.

If the Examiner intended to express the view that software packaging parameters are defined by way of configuration parameters as required by claim 42 are common knowledge, then Applicants disagree and based on *In re Ahlert and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

#### **AA. Claims 43-47**

The Examiner, without naming any specific parameters, took Official Notice that all of the various configuration parameters recited in claims 43-37 are well known. Applicants disagree and based on *In re Ahlert and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

**BB. Claim 48**

The Examiner admitted that neither Spencer nor Fascenda teach the limitations of claim 48, and took Official notice “that it would have been obvious . . . to include this limitation.” (Office Action of May 13, p. 13). Applicants respectfully submit that in accordance with MPEP § 2144.03, Official Notice may be taken as to facts not in the record. However, obviousness is not a fact, but a question of law based on underlying factual inquiries. (See MPEP § 2141 II). Therefore, Applicants respectfully submit that Official Notice of obviousness may not be taken and consequently the Examiner has failed to present a *prima facie* case of obviousness. For at least this additional reason, Applicants respectfully submit that claim 48 and all claims depending therefrom are allowable over the cited art.

If the Examiner intended to express the view that role configuration parameters comprising device role configuration parameters as required by claim 48 are common knowledge, then Applicants disagree and based on *In re Ahlert and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

**CC. Claim 50**

The Examiner admitted that neither Spencer nor Fascenda teach the limitations of claim 50, and took Official notice “that it would have been obvious . . . to include this limitation.” (Office Action of May 13, p. 13). Applicants respectfully submit that in accordance with MPEP § 2144.03, Official Notice may be taken as to facts not in the record. However, obviousness is not a fact, but a question of law based on underlying factual inquiries. (See MPEP § 2141 II). Therefore, Applicants respectfully submit that Official Notice of obviousness may not be taken and consequently the Examiner has failed to present a *prima facie* case of obviousness. For at least this additional reason, Applicants respectfully submit that claim 50 and all claims depending therefrom are allowable over the cited art.

If the Examiner intended to express the view that compatibility requirements comprise configuration compatibility requirements as required by

claim 50 are common knowledge, then Applicants disagree and based on *In re Ahlert and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

**DD. Claims 51-55**

The Examiner took Official Notice that all of the various configuration compatibility requirements recited in claims 51-55 are well known. Applicants disagree and based on *In re Ahlert and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

**EE. Claim 56**

The Examiner admitted that neither Spencer nor Fascenda teach the limitations of claim 56, and took Official notice "that it would have been obvious . . . to include this limitation." (Office Action of May 13, p. 14). Applicants respectfully submit that in accordance with MPEP § 2144.03, Official Notice may be taken as to facts not in the record. However, obviousness is not a fact, but a question of law based on underlying factual inquiries. (See MPEP § 2141 II). Therefore, Applicants respectfully submit that Official Notice of obviousness may not be taken and consequently the Examiner has failed to present a *prima facie* case of obviousness. For at least this additional reason, Applicants respectfully submit that claim 56 and all claims depending therefrom are allowable over the cited art.

If the Examiner intended to express the view that device role configuration compatibility requirements comprising device role history configuration compatibility requirements as required by claim 56 are common knowledge, then Applicants disagree and based on *In re Ahlert and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

**FF. Claim 60**

The Examiner admitted that neither Spencer nor Fascenda teach the limitations of claim 60, and took Official notice "that it would have been obvious . . . to include this limitation." (Office Action of May 13, p. 15). Applicants respectfully submit that in accordance with MPEP § 2144.03, Official

Notice may be taken as to facts not in the record. However, obviousness is not a fact, but a question of law based on underlying factual inquiries. (See MPEP § 2141 II). Therefore, Applicants respectfully submit that Official Notice of obviousness may not be taken and consequently the Examiner has failed to present a *prima facie* case of obviousness. For at least this additional reason, Applicants respectfully submit that claim 60 is allowable over the cited art.

If the Examiner intended to express the view that an access control list (ACL) being defined by domain name server (DNS) address of the network device as required by claim 60 are common knowledge, then Applicants disagree and based on *In re Ahlert and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

#### **GG. Claim 62**

The Examiner admitted that neither Spencer nor Fascenda teach the limitations of claim 62, and took Official notice "that it would have been obvious . . . to include this limitation." (Office Action of May 13, p. 15-16). Applicants respectfully submit that in accordance with MPEP § 2144.03, Official Notice may be taken as to facts not in the record. However, obviousness is not a fact, but a question of law based on underlying factual inquiries. (See MPEP § 2141 II). Therefore, Applicants respectfully submit that Official Notice of obviousness may not be taken and consequently the Examiner has failed to present a *prima facie* case of obviousness. For at least this additional reason, Applicants respectfully submit that claim 62 is allowable over the cited art.

If the Examiner intended to express the view that having access to the agent be limited according to domain name server (DNS) address of the network device as required by claim 62 are common knowledge, then Applicants disagree and based on *In re Ahlert and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

#### **HH. Claim 63**

The Examiner admitted that neither Spencer nor Fascenda teach the limitations of claim 63, and took Official notice "that it would have been

obvious . . . to include this limitation." (Office Action of May 13, p. 16). Applicants respectfully submit that in accordance with MPEP § 2144.03, Official Notice may be taken as to facts not in the record. However, obviousness is not a fact, but a question of law based on underlying factual inquiries. (See MPEP § 2141 II). Therefore, Applicants respectfully submit that Official Notice of obviousness may not be taken and consequently the Examiner has failed to present a *prima facie* case of obviousness. For at least this additional reason, Applicants respectfully submit that claim 63 is allowable over the cited art.

If the Examiner intended to express the view that having software roles compatibility requirements relate to an IP address of the network device as required by claim 63 are common knowledge, then Applicants disagree and based on *In re Ahlert and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

## **II. Claim 64**

The Examiner admitted that neither Spencer nor Fascenda teach the limitations of claim 64, and took Official notice "that it would have been obvious . . . to include this limitation." (Office Action of May 13, p. 16). Applicants respectfully submit that in accordance with MPEP § 2144.03, Official Notice may be taken as to facts not in the record. However, obviousness is not a fact, but a question of law based on underlying factual inquiries. (See MPEP § 2141 II). Therefore, Applicants respectfully submit that Official Notice of obviousness may not be taken and consequently the Examiner has failed to present a *prima facie* case of obviousness. For at least this additional reason, Applicants respectfully submit that claim 64 is allowable over the cited art.

If the Examiner intended to express the view that having the software roles compatibility requirements relate to IP address compatibility requirements as required by claim 64 are common knowledge, then Applicants disagree and based on *In re Ahlert and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

**JJ. Claim 65**

The Examiner admitted that neither Spencer nor Fascenda teach the limitations of claim 65, and took Official notice "that it is obvious . . . to specifically include the identification of a VLAN." (Office Action of May 13, p. 16-17). Applicants respectfully submit that in accordance with MPEP § 2144.03, Official Notice may be taken as to facts not in the record. However, obviousness is not a fact, but a question of law based on underlying factual inquiries. (See MPEP § 2141 II). Therefore, Applicants respectfully submit that Official Notice of obviousness may not be taken and consequently the Examiner has failed to present a *prima facie* case of obviousness. For at least this additional reason, Applicants respectfully submit that claim 65 is allowable over the cited art.

If the Examiner intended to express the view that determining based upon an identification of a virtual local area network (VLAN) with which said network device is associated as required by claim 65 are common knowledge, then Applicants disagree and based on *In re Ahlert and Kruger*, 165 USPQ 418 (CCPA 1970) Applicants ask whether the Examiner can show support for this view.

**II. CONCLUSION**

In the course of the foregoing discussions, Applicants may have at times referred to claim limitations in shorthand fashion, or may have focused on a particular claim element. This discussion should not be interpreted to mean that the other limitations can be ignored or dismissed. The claims must be viewed as a whole, and each limitation of the claims must be considered when determining the patentability of the claims. Moreover, it should be understood that there may be other distinctions between the claims and the cited art which have yet to be raised, but which may be raised in the future.

Applicants respectfully request reconsideration and that a timely Notice of Allowance be issued in this case. It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional

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Amdt. dated July 30, 2009  
Reply to Office Action of May 13, 2009**

extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Hewlett-Packard Development Company's Deposit Account No. 08-2025.

Respectfully submitted,

/David M. Wilson/

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